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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,055	07/10/2001	Klaus Keite-Telgenbuscher	Beiersdorf 730-WCG	9275

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Norris, McLaughlin & Marcus  
30th Floor  
220 East 42nd Street  
New York, NY 10017

EXAMINER

BAREFORD, KATHERINE A

ART UNIT	PAPER NUMBER
1762	

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/902,055Applicant(s)  
KEITE-TELGENBUSCHER ET AL

Examiner

Katherine A. Bareford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

*Claim 2 is canceled.*

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The amendment of July 14, 2003 has been received and entered.

#### *Specification*

2. The objection to the disclosure because of informalities is withdrawn due to applicant's arguments of July 14, 2003.

#### *Claim Objections*

3. The objection to claim because of informalities is withdrawn due to applicant's amendment to claim 13 in the amendment of July 14, 2003.
4. In the amendment of July 14, 2003, in the amendments to the claims section, it is indicated that claim 3 is "currently amended", however, no markings are provided to indicate where an amendment occurs, and the claim appears to be identical to the claim as provided in the preliminary amendment of July 10, 2001. In the Remarks section of the July 14, 2003 (under "Summary of Amendments Made") it is also indicated that claim 3 has been amended. If an amendment to claim 3 was actually intended to be made, it appears that it was not provided.

#### *Claim Rejections - 35 USC § 112*

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5. The rejection of claim 4 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is withdrawn due to applicant's amendments to claim 4 and 1 to provide antecedent basis in the amendment of July 14, 2003.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 3-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig (US 5122219) in view of Moriarity (US 6273701).

Ludwig teaches a method of applying liquid or pastelike substances to a backing material. Column 1, lines 5-10 and figure 1. The material can be thermoplastic. Column 1, lines 5-10. The substance is applied using a die to coat at least part of the backing material traveling along the die. Column 3, lines 10-40 and figure 1. The die is provided with heating elements. Column 3, lines 40-68 and figure 1.

Claim 7, 15: the backing material is guided along an apparatus which produces counterpressure. Figure 1 and column 3, lines 10-40. This apparatus can be a roll. Figure 1 and column 3, lines 10-40.

Claim 8: the substance can be applied by means of the die through a perforated cylinder onto the backing material. Figure 1 and column 3, lines 10-40.

Claim 11, 14: the coating can be a thermoplastic polymer. Column 1, lines 5-10.

Ludwig teaches all the features of the claims except (1) the transverse bending of the die based on temperature differences in the die body (claim 1), (2) the die features (claims 1, 3-6, 9-10, 19) and (3) the specific materials and amounts (claims 15-18)

Moriarity teaches an extrusion die system. Figures 1-3 and column 2, lines 35-40. The die is used to extrude a liquid/pasty substance to a backing material (polymer melt onto a roll, for example). See column 5, lines 5-15 and column 7, lines 20-35. The die body is flexed (i.e. bent) transversely to the direction of travel of the roll in zones across the elongated portion of the die. See figures 2-3 and column 6, lines 25-60. This bending can be induced by temperature differences within the die body that come from heaters embedded within the die body. See figures 2-3 and column 6, lines 25-60. The heaters can be electrical heaters. Column 6, lines 30-45 and figures 2-3. Bending can also occur through the use of a heat controlled actuator system. See column 5, lines 5-30 and figures 1-3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ludwig to provide a thermal adjustment system that provides the claimed bending as suggested by Moriarity so as to provide optimum control of the extrudate dimensions from the die, because Ludwig teaches a system of coating by extruding heated coating material from a die, and Moriarity teaches a method of controlling extrudate dimensions when extruding heated coating material from a die using embedded heating elements. It further would have been

obvious that the coating fluid provides part of the temperature control of the various zones, since both references teach heating the dies and/or coating material to provide broad temperature control of the coating material. It further would have been obvious to move the die in its mounts with an expectation of desirable results, since it would be desired to clean the web and load the substrate in start up procedure. It further would have been obvious that the bending would be controlled proportionate to the amount of the substance applied to the backing roll, since this reflects the die gap width. It further would have been obvious to perform routine experimentation to optimize the processing shear, based on the die gap and coating material selected. It further would have been obvious to apply a hot-melt pressure sensitive adhesive using the teachings of Ludwig with an expectation of desirable coating results, since it is the Examiner's position that hot-melt thermoplastics as taught by Ludwig are well known to be used when providing hot-melt pressure sensitive adhesives. As to the amount of coating material applied, it is the Examiner's position that it would have been obvious to optimize the amounts of material applied passed on the final product to be produced.

8. Claims 1, 3-7 and 9-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 622 127 A1 (Hereinafter '127) in view of Moriarity (US 6273701).

'127 teaches a method of applying a coating substance to a backing material. Column 2, lines 5-30 and figure 2. The material can be a hot-melt adhesive. Column 1, lines 10-15. The substance is applied using a die to coat at least part of the backing material traveling along the die. Column 2, lines 10-30 and figure 2.

Claim 7, 15: the backing material can be guided along an apparatus which produces counterpressure. Figure 2 and column 3, lines 40-55 (if the backing material is considered the substrate 30, then the counterpressure is provided by backing roller 36). This apparatus can be a roll. Figure 2 and column 3, lines 40-55.

Claim 11, 16: the coating can be a hot-melt adhesive. Column 1, lines 10-15.

Claims 12-13: the backing material can be a roll with an abhesive surface. Figure 2 and column 3, line 55 through column 4, line 5 (if the backing material is considered to be application roller 26). The coating on the surface can be a fluorine coating (i.e. TEFLON). Column 3, line 55 through column 4, line 5.

'127 teaches all the features of the claims except (1) the transverse bending of the die based on temperature differences in the die body (claim 1), (2) the die features (claims 1, 3-6, 9-13, 19), (3) the thermoplastic (claims 11, 14) and (4) the amounts applied (claims 17-18).

Moriarity teaches an extrusion die system. Figures 1-3 and column 2, lines 35-40. The die is used to extrude a liquid/pasty substance to a backing material (polymer melt onto a roll, for example). See column 5, lines 5-15 and column 7, lines 20-35. The die body is flexed (i.e. bent) transversely to the direction of travel of the roll in zones across the elongated portion of the die. See figures 2-3 and column 6, lines 25-60. This bending can be induced by temperature differences within the die body that come from heaters embedded within the die body. See figures 2-3 and column 6, lines 25-60. The heaters can be electrical heaters. Column 6, lines 30-45 and figures 2-3. Bending can also occur through the use of a heat controlled actuator system. See column 5, lines 5-30 and figures 1-3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify '127 to provide a thermal adjustment system that provides the claimed bending as suggested by Moriarity so as to provide optimum control of the extrudate dimensions from the die, because '127 teaches a system of coating by extruding heated coating material from a die, and Moriarity teaches a method of controlling extrudate dimensions when extruding heated coating material from a die. It further would have been obvious that the coating fluid provides part of the temperature control of the various zones, since the references teach heating coating material which would affect the temperature results in the zones (note the flow descriptions in Moriarity). It further would have been obvious to move the die in its mounts with an expectation of desirable results, since it would be desired to clean the web and load the substrate in start up procedure. It further would have been obvious that the bending would be controlled proportionate to the amount of the substance applied to the backing roll, since this reflects the die gap width. It further would have been obvious to perform routine experimentation to optimize the processing shear, based on the die gap and coating material selected. It further would have been obvious to perform routine experimentation to optimize the amount of coating applied to the applicator roll (backing material), based on the coating used and the substance to be applied (note the suggested thickness and materials in '127). It further would have been obvious to use thermoplastic polymers as the adhesive materials with an expectation of desirable coating results, given the teaching in '127 of using various hot-melt pressure sensitive adhesives, which are well known in the art to be thermoplastics.



*Response to Arguments*

9. Applicant's arguments filed July 14, 2003 have been fully considered but they are not persuasive.

Applicant has argued (1) that the limitations of claim 2 have been provided in independent claim 1. Applicant further argues that the references do not teach or suggest having at least two zones temperature-controlled differently in its cross section and/or along its longitudinal axis as is currently claimed. Furthermore, applicant (2) has argued that rationales which are promulgated by the examiner to combine the references are <sup>not</sup> found or suggested by the respective references. Applicant cites case law as to this issue. Applicant further (3) argues that optimization of parameters which are not recognized as results-effective by their respective specifications is improper and cites case law is to this issue.

The Examiner has reviewed these arguments, however, the rejection above is maintained. As to applicant's first argument (1), the Examiner notes that clam 1, as amended, requires that the die have "at least two zones temperature-controlled differently in its cross section and/or along its longitudinal axis". However, it is the Examiner's position that the reference to Moriarity, used in both rejections, clearly teaches this feature as discussed in the rejections above. This is clearly evident in figure 3 and in column 6, lines 25-60, which provides a description of "flexure zone 117". This flexure zone 117 is made up of multiple embedded heaters 138 and 136 that are embedded across the longitudinal width of the die which act to "... increase or decrease the lip temperature in various longitudinal zones of the web 124 depending on the signal transmitted. . ." (see column 6, lines 45-50). These temperature zones (which would be temperature

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controlled differently in the different zones, since there is temperature changes in various longitudinal zones) cause flexure of the die. See column 6, lines 55-60. (2) As to applicant's argument that there are further rationales which are promulgated by the Examiner to combine the references that are not found or suggested by the respective references, these arguments amount to a general allegation that the Examiner's rejection is improper, without specifically pointing out improper rationales. See 37 CFR 1.111(b). Since no specific improper rationales are indicated by applicant, the rejection is maintained. (3) As to applicant's arguments that optimization of parameters which are not recognized as results-effective by their respective specifications is improper, these arguments amount to a general allegation that the Examiner's rejection is improper, without specifically pointing out improper optimization by the Examiner. See 37 CFR 1.111(b). Since no specific instances of improper optimization are indicated by applicant, the rejection is maintained.

### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory

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period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (703) 308-0078. The examiner can normally be reached on M-F(7:00-4:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
KATHERINE A. BAREFORD  
PRIMARY EXAMINER  
GROUP ~~1100~~ 1700